

REMARKS/ARGUMENTS

In the office action dated June 19, 2009, claims 1, 4-6, 8, and 17-21 were rejected. Claims 12-14 were withdrawn from consideration. The drawings and specification were also objected to.

In response, the drawings, the specification, and claims 1, 5, and 20 have been amended. Claims 3, 7, 9 - 11, 15, and 16 were previously cancelled. Reconsideration in view of the amendments and the following remarks is respectfully requested.

Drawings

In the Office Action, the reference numerals in the drawings were objected to. In response, replacement sheets and marked up versions of Figs. 7 – 10 are submitted herewith. The specification has been amended to conform the language to the language of the claims. In view of the amendments, the Applicants respectfully request that the objections be withdrawn.

Specification

The Specification has been objected to as not providing sufficient antecedent basis for the claim language. In response, the specification has been amended. In view of the amendments, the Applicants respectfully request that the objections be withdrawn.

103 Rejections

Claims 1, 4, 20 and 21 were rejected under 35 U.S.C. 103(a) as unpatentable over Sandham and Gardenier. Reconsideration in view of the amendments and the following remarks is respectfully requested.

The independent claims each recite two water body fittings configured to permit delivery of water onto the shoulders or neck of the bather. Each of the independent claims has been amended to recite that each fitting is integrated with at least one of a bath wall or rim section of the bath. Each fitting further comprises a hollow body which is elongate in a generally horizontal axis, and includes one end that is closer to the other fitting than another end. Each fitting, further,

is pivotally mounted along a generally vertical axis, and is pivotally moveable away from the bath wall or rim section and towards the other fitting to reduce the angle between water flow from each fitting relative to the other. This configuration enables the two outlets to be pivoted to 'focus' water flow onto the shoulders of bathers having different shoulder widths.

The Sandham reference discloses a bath that includes two spraying disks 19 that are positioned along a length of the bath, and mounted on opposing sides of a tub. The disks are mounted on ball and socket joints that can be pivoted to spray water in varying directions. These disks are not mounted integrally in the tub, and are not configured to direct water onto the neck or shoulder of a bather.

The Gardenier reference discloses a hydrotherapy tub that includes slotted outlets. The direction of flow of the slotted outlets can be adjusted by changing the angle of an inner wall (col. 5, lines 56 – 60). The angle adjustment allows the angle of flow to be adjusted along a horizontal axis, but does not allow adjustment along a vertical axis. The nozzles, therefore, cannot be adjusted to reduce the angle between water flow from each fitting relative to the other, as recited in the claims as amended.

Neither of the cited references, therefore, discloses a horizontally elongate fitting which is mounted integral with a portion of the tub, and which can be pivoted along a vertical axis to direct fluid flow onto the neck and shoulders of a bather. Neither reference provides nozzles which can be adjusted to reduce the angle of water flow to fit bathers having shoulders of different width, as recited in the claims. The cited references, therefore, do not disclose all of the elements of the claims. The cited references, moreover, do not suggest adjusting the angle of water flow to optimize flow for bathers with shoulders of differing width, and the Applicants therefore respectfully request that the rejection under 35 U.S.C. Section 103 (a) be withdrawn.

Claims 1, 4-6, 8, and 17-21 were also rejected under 35 U.S.C. 103(a) as unpatentable over Sandham, Gardenier, and Leaverton. Sandham and Gardenier are discussed above. Leaverton, similarly, does not disclose a horizontally elongate fitting which can be pivoted along a vertical axis to direct fluid flow onto the neck and shoulders of a bather, and neither teaches nor suggests a bath in which the nozzles can be adjusted to provide column of fluid directed at the shoulders and necks of different sized bathers. Claims 1, 4 - 6, 8, and 17 - 21 are therefore believed to be patentable over the cited references for the reasons set forth above, and the Applicants respectfully request that the rejection of these claims be withdrawn.

Conclusion

In view of the foregoing amendments and remarks, the claims are believed to be in condition for allowance, and a notice of allowance for these claims is respectfully requested.

A three month extension fee is necessary for entry of this response. The Commissioner is hereby authorized to charge \$1,110.00 and any other fees under 37 CFR § 1.17 that may be due on this application to Deposit Account 17-0055. The Commissioner is also authorized to treat this amendment and any future reply in this matter requiring a petition for an extension of time as incorporating a petition for extension of time for the appropriate length of time as provided by 37 CFR § 136(a)(3).

Respectfully submitted,
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